

United States Senate
WASHINGTON, DC 20510

December 6, 2018

John Kelly
Acting Inspector General
Office of Inspector General
Department of Homeland Security
245 Murray Lane S.W.
Washington, D.C. 20528

Dear Acting Inspector General Kelly,

We are writing to request that your office expand its ongoing review of the Federal Emergency Management Agency's (FEMA) contracting in Puerto Rico Hurricane Maria relief efforts to include the recently reported markups and overhead costs associated with the contractors hired to execute and manage the \$1.2 billion "Tu Hogar Renace" program.

On October 30, 2017, the Federal Emergency Management Agency (FEMA) announced the creation of a "wide range of housing options for Puerto Ricans displaced by Hurricanes Irma and Maria."¹ One of these options, the Tu Hogar Renace (Your Home Reborn) program, provides temporary repairs to damaged roofs, windows, doors, walls, and water heaters to "return the home to safe, habitable and functional conditions."² The Department of Housing and Urban Development (HUD) hired seven major contractors to conduct the repair work and two firms to manage the program.³

We are concerned by a new report that "[m]ore than 60 percent of what FEMA is spending in the program" to repair up to 120,000 homes is not paying for these repairs but is instead "going toward overhead, profit and steep markups."⁴ While homeowners were approved for "up to \$20,000 each in aid," a *New York Times* review of hundreds of invoices and contracts indicates that—in nearly every case—they received less than half of that.⁵ Though funding should be allocated to cover costs associated with transportation, warehousing, insurance, and taxes, it is a significant concern that only a small percentage of taxpayer funding went to actual home improvements for impacted Puerto Rican residents.

For that reason, we request that you conduct an investigation into the procurement of contractors, firms, and subcontractors in the Tu Hogar Renace program and determine how funding allocations for the program were decided and what oversight was conducted to ensure that the

¹ Federal Emergency Management Agency, "Housing Resources for Residents of Puerto Rico Displaced by Hurricanes Irma and Maria," October 30, 2017, <https://www.fema.gov/news-release/2017/10/30/4339/housing-resources-residents-puerto-rico-displaced-hurricanes-irma-and-maria>.

² *Id.*

³ New York Times, "\$3,700 Generators and \$666 Sinks: FEMA Contractors Charged Steep Markups on Puerto Rico Repairs," Frances Robles, November 26, 2018, <https://www.nytimes.com/2018/11/26/us/fema-puerto-rico-housing-repairs-maria.html>.

⁴ *Id.*

⁵ *Id.*

projects were completed in a cost-effective manner that was most conducive to Puerto Ricans' recovery.

The *New York Times* reported on November 26, 2018 that the Department of Housing and Urban Affairs' (HUD) awarded contracts to every company that submitted bids by the deadline to help execute the Tu Hogar Renace program. Because of the expansiveness and time sensitivity of the project, however, many of the companies hired subcontractors who carried out the actual repairs.⁶ The prices charged for equipment and services were chosen by a process called "interquartile range," where the low and high outlier bids are used to determine a middle price.⁷

Records show that these contracting and pricing processes led to "a large gap between the amounts FEMA contractors hired by the Department of Housing were paid and the actual cost of the work that was ultimately performed."⁸ For example, FEMA paid for about 12,400 people to receive generators at a cost of \$3,700 each, when the cost of devices, supplies, and labor actually amounted to only \$800 each.⁹ In another instance, FEMA paid \$666 apiece for new bathroom sinks, when the contractors who actually bought and installed them paid only \$260 apiece.¹⁰ Another example revealed that while FEMA paid almost \$4 a square foot to repair roofs, the work was done by subcontractors for only \$1.64 a foot.¹¹ Multiple companies that were subcontracted to execute this work have expressed their concerns about these payment discrepancies, and several have even registered complaints with FEMA and Puerto Rico's consumer affairs agency, saying that the markups "amounted to illegal price gouging."¹²

Two Tu Hogar Renace contractors, Excel Construction and Adjusters International, had connections with the Trump Administration prior to being awarded the contracts. Adjusters International was awarded a \$202 million contract to manage the overall program. Adjusters owner, Daniel A. Craig, was a former senior FEMA official who worked for FEMA during the Bush Administration and was also the Trump Administration's nominee to be deputy director of FEMA last year, until the revelation that the Inspector General's office had investigated him for going on job interviews with companies that had received no-bid contracts after Hurricane Katrina led to him withdrawing his nomination.¹³ Excel Construction, after donating \$100,000 in 2016 to Trump Victory, a joint fund-raising committee set up by the Trump campaign and the Republican National Committee, was one of the seven companies' awarded a contract for conducting repairs.¹⁴ This pattern of parties with significant connections with either the Trump campaign or Administration being awarded contracts warrants scrutiny.

FEMA's federal coordinating officer for Puerto Rico, Michael Byrne, has been quoted saying that the agency "will not pay costs that cannot be justified [,]...will do a rigorous analysis of

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Project on Government Oversight, "Previous Ethics Investigations Cause FEMA Nominee to Withdraw," Scott Amey, September 14, 2017, <https://www.pogo.org/investigation/2017/09/previous-ethics-investigations-cause-fema-nominee-to-withdraw>.

¹⁴ New York Times, "\$3,700 Generators and \$666 Sinks: FEMA Contractors Charged Steep Markups on Puerto Rico Repairs," Frances Robles, November 26, 2018, <https://www.nytimes.com/2018/11/26/us/fema-puerto-rico-housing-repairs-maria.html>.

what was actually expended [and] will only pay for things that were reasonable.”¹⁵ However, these issues with Tu Hogar Renace program’s contracting and execution appear to be part of a larger pattern.

On December 5, 2017, we sent a letter with our Senate colleagues about an award of over \$30 million in contracts to Bronze Star LLC for temporary roofing materials in Puerto Rico that were never delivered.¹⁶ You responded on December 20, 2017 and stated that your office “recognize[s]...our... concern” and “has decided to initiate a review of the circumstances surrounding FEMA’s award of the contracts.”¹⁷ On February 7, 2018, we and Senate colleagues sent you another letter regarding the botched \$156 million contract awarded to Tribute Contracting LLC.¹⁸ In response, you again reiterated that you “understood... [our]... concerns” and have opened a review into the matter.¹⁹ And on October 3, 2018, a third letter was sent regarding FEMA’s awarding of contracts to companies with little or no experience in conducting the kind of work assigned to them.²⁰

We remain very concerned by reports that FEMA has awarded multi-million dollar contracts for hurricane-related aid to multiple unqualified companies. We are also concerned about the most recent news regarding the markups and overhead costs associated with its \$1.2 billion Tu Hogar Renace program. This is especially troubling when Mr. Byrne has cited “cost and administrative burden” as his rationale for rejecting multiple calls from us and others in Congress for FEMA to implement the Disaster Housing Assistance Program (DHAP)—a housing program for hurricane evacuees that was much-needed.²¹

Therefore, we request that you expand the scope of your current investigation on FEMA’s award of contracts to include a determination of the procurement, payment, and oversight of contractors and firms in the Tu Hogar Renace program. Specifically, we ask that you investigate the following questions:

Reports show that the first repairs conducted as part of the Tu Hogar Renace program did not begin until more than five months after the hurricane.

1. Why did it take five months for the first repairs to be conducted?

¹⁵ *Id.*

¹⁶ Letter from Senator Elizabeth Warren, et al. to Acting Inspector General John Kelly, December 5, 2017, https://www.warren.senate.gov/files/documents/2017_12_05_Letter_to_DHS_IG_on_Bronze_Star_LLC.pdf.

¹⁷ Letter from Acting Inspector General John Kelly to Senator Warren and her colleagues, December 20, 2017.

¹⁸ Letter from Senators Elizabeth Warren, Robert Menendez et al. to Acting Inspector General John Kelly, February 7, 2018, https://www.warren.senate.gov/files/documents/2018_02_08_Letter_to_DHS_IG_on_Tribute_Contracting_LLC.pdf

¹⁹ Letter from Acting Inspector General John Kelly to Senator Warren and her colleagues, March 9, 2018.

²⁰ McClatchy DC Bureau, “Senators demand probe of FEMA awards to inexperienced bidders after Hurricane Maria,” October 3, 2018, <https://www.mcclatchydc.com/news/politics-government/congress/article219428080.html>.

²¹ Letter from FEMA Federal Coordinating Officer Michael Byrne to Puerto Rico Governor Ricardo Rosselló, May 15, 2018. See also letter from Senators Elizabeth Warren and Edward Markey to FEMA Administrator Brock Long, June 21, 2018, <https://www.warren.senate.gov/imo/media/doc/2018.06.21%20Follow%20up%20Letter%20to%20Administrator%20Long.%20pdf.pdf>.

The Department of Housing said Tu Hogar Renace guidelines for awarding contracts and setting prices were approved by FEMA. We ask that you answer the following questions regarding the procurement and payment processes associated with the program.


2. What was the process by which the contractors and firms charged with executing and managing the Tu Hogar Renace program was awarded the contracts?
3. Why did FEMA use the “interquartile range” process in determining costs for the Tu Hogar Renace program?
4. What oversight did FEMA conduct to determine that the federal funds that were allocated to the Tu Hogar Renace program were effectively managed?
5. What factors did FEMA consider in awarding Adjusters International and Excel Construction its contracts? Were those companies’ connections to the Trump Administration a factor?
6. How has FEMA responded to contractor complaints about the markups amounting to “illegal price gouging”?

Finally, given the repeated instances of inappropriately awarded contracts to companies conducting disaster assistance in Puerto Rico following Hurricane Maria, we would like to follow up on the steps the Inspector General’s office has taken to address these issues now and in the future.

7. What steps has FEMA taken in the wake of the Bronze Star, Tribute Contracting LLC, and other questionable contracts to analyze and improve its contracting processes?
8. When does the Department of Homeland Security’s Office of Inspector General expect to release its report of its review of the circumstances surrounding FEMA’s contracts?

Please do not hesitate to contact Courtney Brunson of Senator Warren’s staff at 202-224-4543 with any questions or concerns.


Sincerely,



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator



Bernard Sanders
United States Senator



Richard J. Durbin
United States Senator